IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION.
WRIT PETITION No.4998 of 1995.

Smt.Priya Arun Borse. ..Petitioner.

Vs.

The Secretary Gopalrao Patil. ..Respondent.

Mr.M.V. Limaye i/b Mr. R.S.Apte,Advocate for the Petitioner.

Mr. A.G.Kothari,Advocate for Respondent No.1.

None appears for Respondent No.2 though served.

CORAM:R.M.S.KHANDEPARKAR,J.

DATED:13TH NOVEMBER, 2006.

P.C.:-

1] Heard.

2] The petitioner challenges the judgment and order dated 9th of May, 1995 passed by the School Tribunal,Nasik Region,Nasik on various grounds. It is not necessary to address all the points and as fairly admitted by the learned Advocate for the Respondent no.1 that the impugned order cannot be sustained on two grounds and needs to be set aside and matter to be remanded to School Tribunal for reconsideration thereof in accordance with the provisions of law.

3] Undisputedly, the petitioner has claimed benefit under Rule 9 (a) of the Maharashtra Employees of Private School (Conditions of Service)Rules, 1981 on the ground that she in fact belongs to O.B.C.category and in case the vacancy was required to be filled in by any O.B.C. candidate, though her appointment was legitimately made as a candidate belonging to open category, in reality she belongs to O.B.C.category,and,therefore, she ought to have been given benefit under Rule 9 (a) of the said Rules. The School Tribunal has not considered this aspect while disposing of the Appeal.

4] Similarly, the respondent management had produced a Roster alleging the same to be a correct Roster. In the process of preparing earlier Roster appointments of the two teachers were not taken into consideration. Therefore, the new Roster which was presented by the management after taking into consideration of these two appointments which were not considered in old Roster. The School Tribunal has not considered this aspect also.

5] In the facts and circumstances of the case, therefore, by consent the impugned order is quashed and set aside. The matter is remanded to the School Tribunal Navi Mumbai to deal with Appeal No. 44 of 1992 after hearing parties on all points including the above noted points and to pass an appropriate order in accordance with the provisions of law. It is made clear that this Court has not expressed any opinion on any of the issues involved in the matter. Needless to state that the School Tribunal is expected to dispose of the matter as expeditiously as possible and in any case on or before 31st March, 2007 after hearing the parties.

6] Rule is made absolute.

7] No order as to costs.

[R.M.S.KHANDEPARKAR,J]